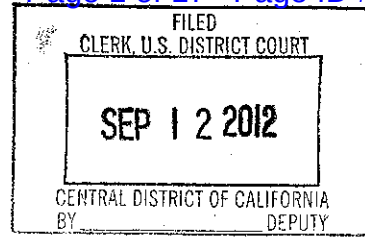


ARSHAK BARTOUMIAN (SBN 210370)
 OMNIA LEGAL, INC
 124 WEST STOCKER STREET STE "B"
 GLENDALE, CALIFORNIA 91202
 TEL. 818-532-9339
 EMAIL: DISPUTES@OMNIALEGAL.ORG



**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

ARABO SARKESYAN, an individual,

Plaintiff
 vs.
 RESURGENT CAPITAL SERVICES, LP., A
 Delaware Limited Partnership
 MIDLAND FUNDING, LLC., A Delaware
 Limited Liability Company
 PORTFOLIO RECOVERY ASSOCIATES,
 LLC., A Delaware Limited Liability Company
 BANK OF AMERICA N.A., A National
 Association
 Defendants.

Case No.: **CV 12-7706** SW (JCG)

COMPLAINT FOR:

- 1) VIOLATIONS OF THE CALIFORNIA CIVIL CODE SECTION 1798.93
- 2) VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT;
- 3) VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT;
- 4) VIOLATIONS OF THE FAIR CREDIT REPORTING ACT;
- 5) VIOLATIONS OF THE CONSUMER CREDIT REPORTING AGENCIES ACT;
- 6) VIOLATIONS OF CALIFORNIA BUSINESS & PROFESSIONAL CODE §17200

DEMAND FOR JURY TRIAL

NOW COMES Plaintiff ARABO SARKESYAN (hereinafter "Plaintiff"), who is an identity theft victim, by and through his attorney on record Arshak Bartoumian, and brings this Complaint against Defendant RESURGENT CAPITAL SERVICES, LP (hereinafter "RESURGENT"), MIDLAND FUNDING, LLC (hereinafter "MIDLAND"), Defendant PORTFOLIO RECOVERY ASSOCIATES, LLC (hereinafter "PORTFOLIO") and Defendant BANK OF AMERICA N.A. (hereinafter "BANA") and alleges as follows:

PRELIMINARY STATEMENT

1. The Fair Debt Collection Practices Act ("FDCPA") regulates the behavior of collection agencies attempting to collect a debt on behalf of another. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt

1 collection practices contribute to a number of personal bankruptcies, marital instability,
2 loss of jobs, and invasions of individual privacy. Congress enacted the FDCPA to
3 eliminate abusive debt collection practices by debt collectors, to ensure that those debt
4 collectors who refrain from using abusive debt collection practices are not competitively
5 disadvantaged, and to promote uniform State action to protect consumers against debt
6 collection abuses [15 U.S.C. §1692(a)-(e)].

7 2. The FDCPA is a strict liability statute, which provides for actual or statutory
8 damages upon the showing of one violation. The Ninth Circuit has held that whether a debt
9 collector's conduct violates the FDCPA should be judged from the standpoint of the "least
10 sophisticated" consumer. [Baker v. G.C. Services Corp., 677 F.2d 775, 778 (9th Cir. 1982);
11 Swanson v. Southern Oregon Credit Service, Inc. 869 F.2d 1222, 1227(9th Cir.1988)]. This
12 objective standard "ensure[s] that the FDCPA protects all consumers, the gullible as well
13 as the shrewd ... the ignorant, the unthinking and the credulous." [Clomon v. Jackson, 988
14 F.2d 1314, 1318-19 (2nd Cir. 1993)].

15 3. To prohibit deceptive practices, the FDCPA, at 15 U.S.C. §1692e, outlaws the
16 use of false, deceptive, and misleading collection letters and names a non-exhaustive list of
17 certain per se violations of false and deceptive collection conduct. 15 U.S.C. §1692e(1)-
18 (16).

19 4. To prohibit harassment and abuses by debt collectors, the FDCPA, at 15 U.S.C.
20 §1692d, provides that a debt collector may not engage in any conduct the natural
21 consequence of which is to harass, oppress, or abuse any person in connection with the
22 collection of a debt and names a non-exhaustive list of certain per se violations of
23 harassing and abusive collection conduct. 15 U.S.C. §1692d(1)-(6). Among these per se
24 violations prohibited by that section are any collection activities, including the placement
25 of telephone calls without meaningful disclosure of the caller's identity [15 U.S.C.
26 §1692d(6)]

27 5. The FDCPA also prohibits, at 15 U.S.C. §1692c, without the prior consent of
28 the consumer given directly to the debt collector, or the express permission of a court of
competent jurisdiction, or as reasonably necessary to effectuate a post judgment judicial
remedy, communication by a debt collector in connection with the collection of any debt,

1 with any person other than the consumer, his attorney, a consumer reporting agency if
2 otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the
3 debt collector.

4 6. The Rosenthal Fair Debt Collection Practices Act ("RFDCPA") regulates
5 collection agencies and original creditors attempting to collect debts on their own behalf.
6 The California legislature has determined that the banking and credit system and grantors
7 of credit to consumers are dependent upon the collection of just and owing debts and that
8 unfair or deceptive collection practices undermine the public confidence that is essential to
9 the continued functioning of the banking and credit system and sound extensions of credit
10 to consumers. The Legislature has further determined that there is a need to ensure that
11 debt collectors exercise their responsibility with fairness, honesty, and due regard for the
12 debtor's rights and that debt collectors must be prohibited from engaging in unfair or
13 deceptive acts or practices.

14 7. This case involves money, property, or other equivalent, due or owing or
15 alleged to be due or owing from natural persons by reason of consumer credit transactions.
16 As such, this action arises out of "consumer debts" and "consumer credit" as those terms
17 are defined by California Civil Code §1788.2(f).

18 8. Congress enacted the Fair Credit Reporting Act ("FCRA") to establish
19 consumer rights to privacy over their credit and financial information and to ensure the
20 "[a]ccuracy and fairness of credit reporting." FCRA provides several protections for
21 consumers, including but not limited to the right to be notified of any negative/unfavorable
22 information reported in their name and the right to dispute inaccurate, outdated and/or
23 incomplete information on their credit file.

24 9. FCRA regulates credit reporting agencies as well as creditors, collection
25 agencies and other parties who provide information to credit reporting agencies and/or
26 obtain and use the consumer credit reports. FCRA Section 623, 15 U.S.C. §1681s-2,
27 imposes obligations on furnishers of information to the credit reporting agencies.
28 Furnishers must report accurate information, correct and update erroneous information, and
provide certain notices to consumer pertaining to furnished information.

10. FCRA Sections 616 and 617, 15 U.S.C. §1681n and §1681o, create private

1 right of action consumers can bring against violators of any provision of the FCRA with
 2 regards to their credit. In *DiMezza v. First USA Bank, Inc.*, supra, the court confirmed that
 3 "[...] the plain language of [CRA Sections 616 and 617, 15 U.S.C. §1681n and §1681o]
 4 provide a private right of action for a consumer against furnishers of information who have
 5 willfully or negligently failed to perform their duties upon notice of a dispute. [...] there is
 6 a private right of action for consumers to enforce the investigation and reporting duties
 imposed on furnishers of information."

7
 8 11. Consumer Credit Reporting Agencies Act ("CCRAA") was implemented to
 9 protect the credit information of California consumers. CCRAA also regulates consumer
 10 credit reporting agencies and furnishers of information with respect to personal, credit and
 11 other financial information submitted and maintained in their credit file. CCRAA in
 12 California Civil Code §1785.25-1785.26 refrains furnishers of information from reporting
 13 information that they know or should have known was erroneous, and obligates furnishers
 14 to cease credit reporting of information disputed by consumers without notice of such
 dispute.

15 12. CCRAA provides consumers with the right to be informed of negative credit
 16 reporting and the right to dispute information in their credit reports, which they believe is
 17 incomplete and/or inaccurate. Consumers also have the right to bring civil action against
 18 violators of any provision of the CCRAA with respect to their rights and their credit, and to
 seek monetary damages. California Civil Code §1785.19 and §1785.31.

19 13. *Sanai v. Saltz, et al.*, 2009 Cal. App. LEXIS 83 (Cal. App. 2d Dist. Jan. 26,
 20 2009) established that consumers may replead their FCRA claims as violations of the
 21 CCRAA and that the state claims are not preempted by FCRA. In further support, courts
 22 have uniformly rejected creditors' and consumer reporting agencies' arguments that the
 23 FCRA bars state law claims. See *Sehl v. Safari Motor Coaches, Inc.*, 2001 U.S. Dist. Lexis
 24 12638 (U.S.D.C. N.D. Cal. 2001)(for detailed discussion); *Harper v. TRW*, 881F. Supp.
 25 294 (U.S.D.C. S.D. Mich. 1995); *Rule v. Ford Receivables*, 36 F. Supp.2d 335 (U.S.D.C.
 26 S.D. Va. 1999); *Watkins v. Trans Union*, 118 F. Supp.2d 1217 (U.S.D.C. N.D. Ala. 2000);
 27 *Swecker v. Trans Union*, 31 F. Supp.2d 536 (U.S.D.C. E.D. Va. 1998); *Saia v. Universal*
 28 *Card Svc.*, 2000 U.S. Dist. Lexis 9494, 2000 Westlaw 863979 (U.S.D.C. E.D. La. 2000);
Sherron v. Private Issue by Discover, 977 F. Supp.2d 804 (U.S.D.C. N.D. Miss. 1997);

1 Hughes v. Fidelity Bank, 709 F. Supp.2d 639 (U.S.D.C. E.D. Pa. 1989).

2
3 **I. JURISDICTION AND VENUE.**

4 14. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d), 15 U.S.C. §1681p,
5 California Civil Code Section 1785.33, 28 U.S.C. §1337, and supplemental jurisdiction
6 exists for the state law claims pursuant to 28 U.S.C. §1367. Declaratory relief is available
7 pursuant to 28 U.S.C. §2201 and 2202.

8 15. Venue is proper in that Plaintiff's claim arose in this District.

9 **II. THE PARTIES.**

10 16. The Plaintiff ARABO SARKESYAN ("Plaintiff"), is a natural person who, at all
11 times relevant herein, resided in Los Angeles County, State of California.

12 17. Plaintiff is a consumer as that term is defined in 15 U.S.C. §1692a (3), 15 U.S.C.
13 §1681a (c) and California Civil Code Section 1785.3(b).

14 18. Defendant RESURGENT is and at all times relevant herein was a Delaware
15 Limited Partnership, conducting business in the State of California.

16 19. Defendant MIDLAND is and at all times relevant herein was a Delaware Limited
17 Liability Company, conducting business in the State of California.

18 20. Defendant PORTFOLIO is and at all times relevant herein was a Delaware
19 Limited Liability Company, conducting business in the State of California.

20 21. Defendant BANA is and at all times relevant herein was a National Association,
21 conducting business in the State of California.

22 22. Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA are debt
23 collectors as that term is defined in 15 U.S.C. §1692a (6) and California Civil Code Section
24 1788.2(c).

25 23. Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA and each one
26 of them is a person as that term is defined in 15 U.S.C. §1681a (b), California Civil Code
27 Section 1785.3(j) and California Civil Code Section 1788.2(g).

28 **III. FACTUAL ALLEGATIONS.**

29 24. On or about October 2011 Plaintiff obtained his credit report from the three
30 national credit reporting agencies, Experian, Equifax and Transunion (collectively "CRAs"),
31 which reveled several fraudulent accounts, including credit and collection accounts reported by
32 Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA as follows: Partial
33 Account#419200000431... reported by RESURGENT, Partial Account#855154...,

1 854568...and 854618... MIDLAND, Partial Account#8906628395454... reported by
2 PORTFOLIO and Partial Account#18... reported by BANA.

3 25. Plaintiff did not know of the fraudulent accounts prior to the credit review and he
4 was never even contacted by Defendants RESURGENT, MIDLAND, PORTFOLIO and
5 BANA with notice of debt and the fraudulent accounts and debts were furnished to his credit
6 file without his knowing.

7 26. Immediately upon discovery of the fraudulent accounts opened in his name and
8 the resulting collection accounts for the fraudulent debts, Plaintiff obtained a full identity theft
9 report pursuant to Penal Code section 530.5 from the police department and forwarded copies
10 to the creditors of those accounts, their respective collection agencies as well as the CRAs that
11 were reporting the fraudulent accounts in Plaintiff's credit history.

12 27. Upon receipt of Plaintiff's fraud notice supported by the identity theft police
13 report and affidavit, Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA and
14 each one of them failed to cease reporting and conduct thorough investigation into the matter.

15 28. On or about March 2012 and again on July 2012 Plaintiff sent follow up notices
16 to Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA at each of their respective
17 addresses, notifying of their violations with regards to the continued credit reporting and/or
18 collection efforts made on fraudulent debts and requesting deletion of their fraudulent accounts
19 from Plaintiff's name.

20 29. To date, after multiple notices and requests, Defendants RESURGENT,
21 MIDLAND, PORTFOLIO and BANA still continue to maintain the fraudulent accounts on file
22 under Plaintiff's name. As a result of Defendants' conduct, Plaintiff has suffered:

- 23 a. Actual damages and serious financial harm arising from monetary losses relating
24 to denials to new credit, loss of use of funds, loss of credit and loan opportunities,
25 excessive and/or elevated interest rate and finance charges while the fraudulent
26 accounts remained in Plaintiff's credit file;
- 27 b. Out of pocket expenses associated with communicating with Defendants
28 RESURGENT, MIDLAND, PORTFOLIO and BANA, disputing the fraudulent
information, cost of lost time and delays caused by Defendants' RESURGENT,
MIDLAND, PORTFOLIO and BANA constant failures/refusals to cooperate;
- c. Emotional distress and mental anguish associated with having fraudulent
derogatory credit information transmitted about Plaintiff to other people both known
and unknown;
- d. Decreased credit score and creditworthiness, which may result in inability to
obtain credit, employment or housing on future attempts.

FIRST CLAIM FOR RELIEF
(Violations of the California Civil Code Section 1798.93)

Against All Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA

30. Plaintiff repeats and reincorporates the preceding paragraphs as though set forth in full in this cause of action.

31. Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA knowingly and willfully violated California Civil Code Section 1798.93. Defendants' violations include, but are not limited to the following:

- a) Ignoring Plaintiff's notification that the subject accounts/debts are fraudulent, that someone other than the Plaintiff opened the accounts without Plaintiff's knowledge and authorization is a clear and willful violation of the California Civil Code Section 1798.93.

SECOND CLAIM FOR RELIEF
(Violation of the FDCPA [15 U.S.C. §§ 1692-1692p])

Against RESURGENT, MIDLAND, PORTFOLIO and BANA

32. Plaintiff repeats and reincorporates the preceding paragraphs as though set forth in full in this cause of action.

33. Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA violated the FDCPA. Defendants' RESURGENT, MIDLAND, PORTFOLIO and BANA violations include, but are not limited to, the following:

- a) Failing to provide the notice required under 15 U.S.C. Section 1692e (11).
- b) Failing to provide written notices of Plaintiff's right to verification of the debt as well as information about the debt and the original creditor, as required under 15 U.S.C. Section 1692g(a);
- c) Failing to cease collection activity upon receipt of Plaintiff's dispute and notices of fraudulent debt, as required under 15 U.S.C. Section 1692g(b);
- d) Using false representations and deceptive means to collect or attempt to collect a debt, in violations of 15 U.S.C. §1692e(10);
- e) Using unfair and/or unconscionable means to collect an alleged debt, in violation of 15 U.S.C. §1692f;
- f) Attempting to collect amounts (including any interests, fees, charges, or expenses incidental to the principal obligations) not expressly authorized by the agreements creating the purported debts or permitted by law, in violations of 15 U.S.C Section 1692f(1)

34. As a result of the above violations of the FDCPA, Defendant is liable to Plaintiff

1 for declaratory judgment that defendants' RESURGENT, MIDLAND, PORTFOLIO and
2 BANA conduct violated the FDCPA, and for Plaintiff's actual damages, statutory damages,
3 costs and attorney's fees.

4 **THIRD CLAIM FOR RELIEF**

5 **(Violations of the RFDCPA)**

6 **Against RESURGENT, MIDLAND, PORTFOLIO and BANA**

7 35. Plaintiff repeats and reincorporates the preceding paragraphs as though set forth
8 in full in this cause of action.

9 36. Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA knowingly and
10 willfully violated RFDCPA. Defendants' violations include, but are not limited to, the
11 following acts performed in attempting to collect a consumer debts:

- 12 a) Using false representations and deceptive means to collect or attempt to collect
13 debts, in violation of California Civil Code Section 1788.17;
- 14 b) Using unfair and/or unconscionable means to collect an alleged debt, in violation
15 of California Civil Code Section 1788.17;
- 16 c) Attempting to collect amounts (including any interests, fees, charges, or expenses
17 incidental to the principal obligations) not expressly authorized by the agreements
18 creating the purported debts or permitted by law, in violations of California Civil
19 Code Section 1788.17.

20 37. As results of Defendants' RESURGENT, MIDLAND, PORTFOLIO and BANA
21 violations of the Rosenthal Act, pursuant to Civil Code Section 1788.30, Plaintiff is entitled to
22 actual damages, statutory damages, attorney's fees and costs.

23 **FOURTH CLAIM FOR RELIEF**

24 **(Violations of the FCRA [15 U.S.C. §1681 et seq.])**

25 **Against All Defendants**

26 38. Plaintiff repeats and reincorporates the preceding paragraphs as though set forth
27 in full in this cause of action.

28 39. Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA violated the
FCRA. Defendant's violations include, but are not limited to, the following:

- a. Failing to follow reasonable procedures to assure maximum possible
accuracy of the information furnished to the CRAs, which is the principal purpose
of the FCRA;

b. Failing to conduct proper investigation of disputed information upon receipt of Plaintiff's dispute, as described in 15 U.S.C. §1681s-2 (b);

c. Failing to delete or permanently block the reporting of the accounts disputed by Plaintiff, which were not and/or could not be verified after the reinvestigation, per 15 U.S.C. §1681s-2 (b)(1)(E);

d. Failing to take proper action of verification, correction, deletion, or permanent block of the information disputed by Plaintiff by the deadline, as described in 15 U.S.C. §1681s-2 (b)(2).

40. As a result of the above violations of the FCRA, Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA and each of them are liable to Plaintiff for declaratory judgment that defendants' RESURGENT, MIDLAND, PORTFOLIO and BANA conduct violated the FCRA, and for Plaintiff's actual damages, statutory damages, cost and attorney's fees.

FIFTH CLAIM FOR RELIEF

(For Violations of the CCRAA)

Against All Defendants

41. Plaintiff repeats and reincorporates the preceding paragraphs as though set forth in full in this cause of action.

42. Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA knowingly and willfully violated CCRAA. Defendant's violations include, but are not limited to, the following acts:

- a) Furnishing information to Plaintiff's credit reports which Defendants RESURGENT, MIDLAND, PORTFOLIO and BANA knew or should have known were inaccurate, in violation of California Civil Code §1785.25(a);
- b) Failing to acknowledge Plaintiff's demand for deletion of fraudulent information furnished to the CRAs following Plaintiff's dispute with the CRAs, as required under California Civil Code Section 1785.30.

SIXTH CLAIM FOR RELIEF

(VIOLATIONS OF CALIFORNIA BUSINESS & PROFESSIONS CODE §17200)

Against All Defendants

1 43. Plaintiff incorporates all preceding paragraphs as though alleged in full in this
2 cause of action.

3 44. Plaintiff is informed and believes and thereon alleges that Defendants RESURGENT,
4 MIDLAND, PORTFOLIO and BANA committed unlawful, unfair, and/or fraudulent business
5 practices, as defined by California Business and Professions Code §17200, specifically by
6 disregarding State and Federal laws governing the business operations of credit reporting
7 agencies and by carrying out company policies that are conflicting with those laws.

8 45. Plaintiff has brought a claim against Defendants RESURGENT, MIDLAND,
9 PORTFOLIO and BANA for violation of Business and Professions Code §17200, because he
10 has suffered sufficient injury to his credit and his name which in turn resulted in financial
11 damages that are the direct result of Defendants' violations alleged above and herein.

12 46. Plaintiff lost money as a direct result of Defendants' RESURGENT, MIDLAND,
13 PORTFOLIO and BANA noncompliance with its duty to resolve Plaintiff's fraud claim in a
14 timely and proper manner. As a result of Defendants' RESURGENT, MIDLAND,
15 PORTFOLIO and BANA wrongful conduct in reporting and allowing the continuous reporting
16 of fraudulent information, Plaintiff has suffered various damages and injuries according to
17 proof at trial.

18 47. Plaintiff seeks equitable relief, costs of lawsuit and other reasonable fees associated with
19 this case and for such other and further relief as the Court may deem just and proper.

20 **PRAIR FOR RELIEF**

21 48. Plaintiff has brought a claims against Defendant for violation of California Civil Code
22 §3294 because of its breach of an obligation owed to Plaintiff which did not arise from contract
23 but rather exist in the relationship of a CRA such as the Defendant and a consumer such as the
24 Plaintiff.

25 49. As alleged herein, Defendant has made several representations to Plaintiff with regard to
26 important facts, including claims that the fraudulent accounts were investigated and were
27 verified to remain on the credit reports.

28 50. The representations made by Defendant to Plaintiff, subject to this Complaint, were false
and those misrepresentations were used to coerce Plaintiff to believe that Defendant was
actually conducting reasonable investigation, that Plaintiff's compliance in providing the

1 necessary notices and documents would result in Defendant's cooperation and that Defendant
2 was not instructed by furnishers of the fraudulent accounts to delete their reporting.

3 51. Defendant knew that the representations made to Plaintiff, as set forth herein, were
4 false when the representations were made, or the subject representations were made with
reckless disregard for the truth.

5 52. Defendant intended that Plaintiff rely on the false misrepresentations made by Defendant.

6 53. Plaintiff reasonably relied on said representations, in that Plaintiff believed that the
7 statements, disclosures and representations made by Defendant were true and accurate.
8 Defendant's misrepresentations compelled Plaintiff to make unnecessary efforts and put
9 Plaintiff through additional undue distress while trying to resolve the situation.

10 54. As a result of his reliance, Plaintiff was harmed and suffered damages. Plaintiff's
11 reliance on Defendant's false representations was a substantial factor in causing delays and
12 Plaintiff's additional harm.

13 55. Defendant is guilty of malice, fraud or oppression, as defined in California Civil Code
14 §3294, and Defendant's actions were malicious and done willfully, in conscious disregard of
15 the rights and safety of Plaintiff, in that the actions were calculated to injure Plaintiff for the
16 benefit and monetary gain of Defendant. As such, Plaintiff is entitled damages pursuant to
17 §3294(a) and is entitled to recover, in addition to actual damages, punitive damages to punish
Defendant and to deter future misconduct.

18
19 56. Defendants' RESURGENT, MIDLAND, PORTFOLIO and BANA actions constituted
20 willful violations of the Federal and State laws as described above and herein with respect to
21 Plaintiff's credit file, his rights and his reputation.

22 WHEREFORE, Plaintiff requests judgment to be entered in his favor and against the
23 Defendants RESURGENT MIDLAND, PORTFOLIO and BANA for:

24 57. Actual damages pursuant to 15 U.S.C. §1681n (a)(1)(A) and/or Cal. Civ. Code
§1785.31(a)(2)(A);

25 58. Statutory damages pursuant to 15 U.S.C. §1681n (a)(1)(A) and/or Cal. Civ. Code
26 §1785.19(a);

27 59. Costs and reasonable attorney's fees pursuant to 15 U.S.C. §1681n (c) and/or
28 Code of Civil Procedure §490.020;

60. Punitive damages pursuant to 15 U.S.C. §1681n (a)(2) and Cal. Civ. Code

§1785.31(a)(2)(B), as the court may allow;

61. Injunctive relief ordering Defendants to delete the reporting of all fraudulent accounts, pursuant to Cal. Civ. Code §1785.31(b) and pursuant to the fact that the reported information is and has been established as fraudulent;

62. Declaratory relief, which is available pursuant to 28 U.S.C. §2201 and §2202;

63. Any other relief this Honorable Court deems just and proper.

DATED: August 28, 2012

Respectfully submitted,

By: Arshak Bartoumian
Arshak Bartoumian, Attorney for Plaintiff

ARSHAK BARTOUMIAN (SBN 210370)
OMNIA LEGAL, INC TEL. 818-532-9339
124 W STOCKER ST STE B GLENDALE CA 91202

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ARABO SARKESYAN, an individual

CASE NUMBER

CV12-7706 SNW (JCG)

PLAINTIFF(S)

v.

RESURGENT CAPITAL SERVICES, LP., A
Delaware Limited Partnership, ~~et al~~
(see attached for additional defendants)

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): RESURGENT CAPITAL SERVICES, LP
(see attached for additional defendants)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, ARSHAK BARTOUMIAN, whose address is 124 W STOCKER ST STE B, GLENDALE, CA 91202. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: SEP 12 2012

By: _____

SHEA BOURGEOIS

Deputy Clerk

(Seal of the Court)

1184

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

ARSHAK BARTOUMIAN (SBN 210370)
OMNIA LEGAL, INC
124 WEST STOCKER STREET STE "B"
GLENDALE, CALIFORNIA 91202
TEL. 818-532-9339
EMAIL: DISPUTES@OMNIALEGAL.ORG

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ARABO SARKESYAN, an individual,

Plaintiff,

vs.

RESURGENT CAPITAL SERVICES, LP., A

Delaware Limited Partnership

MIDLAND FUNDING, LLC., A Delaware

Limited Liability Company

PORTFOLIO RECOVERY ASSOCIATES,

LLC., A Delaware Limited Liability Company

BANK OF AMERICA N.A., A National

Association

Defendants.

Case No.:

COMPLAINT FOR:

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- 5) VIOLATIONS OF THE CONSUMER CREDIT REPORTING AGENCIES ACT;
- 6) VIOLATIONS OF CALIFORNIA BUSINESS & PROFESSIONAL CODE §17200

DEMAND FOR JURY TRIAL

NOW COMES Plaintiff ARABO SARKESYAN (hereinafter "Plaintiff"), who is an identity theft victim, by and through his attorney on record Arshak Bartoumian, and brings this Complaint against Defendant RESURGENT CAPITAL SERVICES, LP (hereinafter "RESURGENT"), MIDLAND FUNDING, LLC (hereinafter "MIDLAND"), Defendant PORTFOLIO RECOVERY ASSOCIATES, LLC (hereinafter "PORTFOLIO") and Defendant BANK OF AMERICA N.A. (hereinafter "BANA") and alleges as follows:

PRELIMINARY STATEMENT

1. The Fair Debt Collection Practices Act ("FDCPA") regulates the behavior of collection agencies attempting to collect a debt on behalf of another. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Stephen V. Wilson and the assigned discovery Magistrate Judge is Jay C. Gandhi.

The case number on all documents filed with the Court should read as follows:

CV12- 7706 SVW (JCGx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) ARABO SARKESYAN	DEFENDANTS RESURGENT CAPITAL SERVICES, LP., A Delaware Limited Partnership, et al (see attached for additional defendants)
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) ARSHAK BARTOUMIAN (SBN 210370): TEL. 818-532-9339 OMNIA LEGAL, INC 124 W STOCKER ST STE B, GLENDALE, CA 91202	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.)
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)
CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ Not Yet Asserted

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 15 U.S.C. SEC. 1681, CAL CIV CODE 1785 and CAL BUS. & PROF CODE 17200

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	VARIOUS

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	VARIOUS

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	VARIOUS

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 08/27/2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))